

Introduced by Senator Cedillo

February 16, 2005

An act to amend Section 14085.6 of the Welfare and Institutions Code, relating to hospitals.

LEGISLATIVE COUNSEL'S DIGEST

SB 328, as amended, Cedillo. Health facilities: economically endangered: reimbursement program.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons are provided with health care benefits, including hospital services.

Under existing law, each hospital contracting to provide services under the Medi-Cal program pursuant to a selective provider contract that falls into any one of 5 categories, is able to demonstrate a purpose for additional funding under the program, and meets the criteria contained in the state Medicaid plan for disproportionate share hospital status is eligible to negotiate with the commission for distributions from the Emergency Services and Supplemental Payments Fund.

This bill would permit, as a condition for a selective provider hospital to negotiate for program funding, the hospital to either meet the criteria for disproportionate share hospital status or be an essential service hospital, as defined under the bill.

~~Existing law provides for the licensure and regulation of health facilities, including hospitals, administered by the State Department of Health Services.~~

~~This bill would state the intent of the Legislature to enact legislation that would provide a special reimbursement program designed to~~

~~preserve economically endangered facilities that offer certain essential hospital services, including emergency room, obstetrical, and neonatal intensive care services to Medi-Cal beneficiaries, the uninsured, and the underinsured.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14085.6 of the Welfare and Institutions
2 Code is amended to read:

3 14085.6. (a) Except as stated in subdivision (g), each hospital
4 contracting to provide services under this article that meets the
5 criteria contained in the state ~~medicaid~~ Medicaid plan for
6 disproportionate share hospital status shall be eligible to
7 negotiate with the commission for distributions from the
8 Emergency Services and Supplemental Payments Fund, which is
9 hereby created. All distributions from the fund shall be pursuant
10 to this section.

11 (b) (1) To the extent permitted by federal law, the department
12 shall administer the fund in accordance with this section.

13 (2) The money in this fund shall be available for expenditure
14 by the department for the purposes of this section, subject to
15 approval through the regular budget process.

16 (c) The fund shall include all of the following:

17 (1) Subject to subdivision (l), all public funds transferred by
18 public agencies to the department for deposit in the fund, as
19 permitted under Section 433.51 of Title 42 of the Code of
20 Federal Regulations or any other applicable federal ~~medicaid~~
21 Medicaid laws. These transfers shall constitute local government
22 financial participation in Medi-Cal as permitted under Section
23 1902(a)(2) of the Social Security Act (Title 42 U.S.C. Sec.
24 1396a(a)(2)) and other applicable federal ~~medicaid~~ Medicaid
25 laws.

26 (2) Subject to subdivision (l), all private donated funds
27 transferred by private individuals or entities for deposit in the
28 fund as permitted under applicable federal ~~medicaid~~ Medicaid
29 laws.

30 (3) Any amounts appropriated to the fund by the Legislature.

31 (4) Interest that accrues on amounts in the fund.

(5) Moneys appropriated to the fund, or appropriated for poison control center grants and transferred to the fund, pursuant to the annual Budget Act.

(d) Amounts in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section. Moneys shall be allocated from the fund by the department and matched by federal funds in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section.

(e) Distributions from the fund shall be supplemental to any and all other amounts that hospitals would have received under the contracting program, and under the state ~~medicaid~~ *Medicaid* plan, including contract rate increases and supplemental payments and payment adjustments under distribution programs relating to disproportionate share hospitals.

(f) Distributions from the fund shall not serve as the state's payment adjustment program under Section 1923 of the Social Security Act (42 U.S.C. Sec. 1396 r-4). To the extent permitted by federal law, and except as otherwise provided in this section, distributions from the fund shall not be subject to requirements contained in or related to Section 1923 of the Social Security Act (42 U.S.C. Sec. 1396 r-4). Distributions from the fund shall be supplemental contract payments and may be structured on any federally permissible basis, as negotiated between the commission and the hospital.

(g) In order to qualify for distributions from the fund, a hospital shall meet all of the following criteria:

(1) Be a contracting hospital under this article.

(2) ~~Satisfy the~~ *Satisfy either of the following:*

(A) ~~Satisfy the state-medicaid~~ *Satisfy the state Medicaid* plan criteria referred to in subdivision (a).

(B) *Be an essential service hospital. For purposes of this section, an "essential service hospital" means a hospital that meets all of the following requirements:*

(i) *Has had a Medi-Cal contract pursuant to Section 14165 for the prior three years.*

(ii) *Has operated for the prior three years, and is currently operating on site, an emergency room that provides basic or comprehensive emergency services, a neonatal intensive care unit, and obstetrical services.*

1 (iii) *Has reported net operating losses, exclusive of*
2 *supplemental payments received under this section, in excess of*
3 *three million dollars (\$3,000,000) for each of the hospital's prior*
4 *three fiscal years.*

5 (3) Be one of the following:

6 (A) A licensed provider of basic emergency services as
7 described in Sections 70411 and following of Title 22 of the
8 California Code of Regulations.

9 (B) A licensed provider of comprehensive emergency medical
10 services as defined in Sections 70451 and following of Title 22
11 of the California Code of Regulations.

12 (C) A children's hospital as defined in Section 14087.21 that
13 satisfies subparagraph (A) or (B) or that jointly provides basic or
14 comprehensive emergency services in conjunction with another
15 licensed hospital.

16 (D) A hospital owned and operated by a public agency that
17 operates two or more hospitals that qualify under subparagraph
18 (A) or (B) with respect to the particular state fiscal year.

19 (E) A hospital designated by the National Cancer Institute as a
20 comprehensive or clinical cancer research center that primarily
21 treats acutely ill cancer patients and that is exempt from the
22 federal Medicare prospective payment system pursuant to
23 Section 1886(d)(1)(B)(v) of the Social Security Act (42 U.S.C.
24 Sec. 1395ww(d)(1)(B)(v)).

25 (4) Be able to demonstrate a purpose for additional funding
26 under the selective provider contracting program including
27 proposals relating to emergency services and other health care
28 services that are made available, or will be made available, to
29 Medi-Cal beneficiaries.

30 (h) (1) The department shall seek federal financial
31 participation for expenditures made from the fund to the full
32 extent permitted by federal law.

33 (2) The department shall promptly seek any necessary federal
34 approvals regarding this section.

35 (i) Any funds remaining in the fund at the end of a fiscal year
36 shall be carried forward for use in following fiscal years.

37 (j) For purposes of this section, "fund" means the Emergency
38 Services and Supplemental Payments Fund.

39 (k) (1) Any public agency transferring amounts to the fund, as
40 specified in paragraph (1) of subdivision (c), may for that

purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public funds or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(2) Notwithstanding paragraph (1), a public agency may transfer to the fund only those moneys that have a source that will qualify for federal financial participation under the provisions of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or other applicable federal ~~medicaid~~ *Medicaid* laws.

(l) Public funds transferred pursuant to paragraph (1) of subdivision (c), and private donated funds transferred pursuant to paragraph (2) of subdivision (c), shall be deposited into the fund, and expended pursuant to this section. The director may accept only those funds that are certified by the transferring entity as qualifying for federal financial participation under the terms of the Medicaid Voluntary Contributions and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) and may return any funds transferred in error.

(m) The department may adopt emergency regulations, if necessary, for the purposes of this section.

(n) The state shall be held harmless from any federal disallowance resulting from this section. A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section with respect to that hospital. The state may recoup that federal disallowance from the hospital in any manner authorized by law or contract.

~~SECTION 1. It is the intent of the Legislature to enact legislation in subsequent amendments that would provide a special reimbursement program designed to preserve economically endangered facilities that offer certain essential hospital services, including emergency room, obstetrical, and neonatal intensive care services to Medi-Cal beneficiaries, the uninsured, and the underinsured.~~